

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JASON ARTHUR ALTHEIDE,

Petitioner

v.

STATE OF NEVADA, et al.,

Respondents

Case No.: 2:19-cv-02245-JAD-BNW

**Order Granting Motion
for Court-Appointed Counsel and
Denying Other Motions**

ECF Nos. 16, 27, 29, 30, 31

Pro se petitioner Jason Altheide moves the court to appoint an attorney to represent him in this 28 U.S.C. § 2254 habeas case.¹ There is no constitutional right to appointed counsel for a federal habeas corpus proceeding,² but the court must appoint an attorney if (1) a case is so complex denying counsel would deny due process or (2) the petitioner's education is so limited that he is incapable of fairly presenting his claims.³ Although it is currently unclear whether some of the legal issues Altheide wishes to raise are complex, he is serving a life sentence without the possibility of parole. Respondents also state that Altheide has a fourth state postconviction habeas corpus petition pending.⁴ Therefore, to ensure due process, I find that this case is sufficiently complex and I grant Altheide's motion for counsel.

¹ ECF No. 31.

² *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993).

³ *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), cert. denied, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984); *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970).

⁴ See Nevada Supreme Court Case No. 80733.

1 IT IS THEREFORE ORDERED that petitioner's motion for appointment of counsel
2 **[ECF No. 31] is GRANTED.** The Federal Public Defender for the District of Nevada (FPD) is
3 appointed to represent petitioner. Once counsel has entered an appearance in this case, the court
4 will issue a scheduling order that will, among other things, set a deadline for counsel to file an
5 amended petition.

6 The Clerk of Court is directed to **ELECTRONICALLY SERVE** the FPD a copy of this
7 order and the petition for writ of habeas corpus [ECF No. 4]. The FPD has 30 days from the date
8 of entry of this order to file a notice of appearance or to indicate to the court its inability to
9 represent petitioner in these proceedings.

10 IT IS FURTHER ORDERED that respondents' motion to dismiss **[ECF No. 16] is**
11 **DENIED without prejudice.**

12 IT IS FURTHER ORDERED that petitioner's motions of notice re: re-filing, to
13 supplement, and to dismiss unexhausted aspects of original petition **[ECF Nos. 27, 29, 30] are**
14 **all DENIED as moot.**

15 Dated: August 31, 2020

16 
17 _____
Jennifer A. Dorsey
United States District Judge
18
19
20
21
22
23